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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

I.L.,

Petitioner,

v.

THE SUPERIOR COURT OF ORANGE
COUNTY,

Respondent;

ORANGE COUNTY SOCIAL SERVICES
AGENCY et al.,

Real Parties in Interest.

G057455

(Super. Ct. Nos. 17DP0326,
17DP0329)

O P I N I O N

Original proceedings; petition for extraordinary writ review challenging orders of the Superior Court of Orange County, Dennis J. Keough, Judge. Petition denied.

Sharon Petrosino, Public Defender, Kenneth Norelli and Brian T. Okamoto, Deputy Public Defenders, for Petitioner.

No appearance for Respondent.

Leon J. Page, County Counsel, Karen L. Christensen and Aurelio Torre, Deputy County Counsel, for Real Party in Interest Orange County Social Services Agency.

Law Office of Harold Francis LaFlamme, Harold Francis LaFlamme and
Yana N. Kennedy, for Real Parties in Interest the Minors.¹

* * *

Petitioner contends substantial evidence does not support the juvenile court's finding that returning two of her children to her would create a substantial risk of detriment to them. She also contends the court erred when it declined to continue reunification services. Petition denied.

I

FACTS

Petitioner I.L. (the mother) has four children. A.G. was born in 2008, B.G. was born in 2010, N.G. was born in 2012 and S.A. was born in 2014.²

In July 2016, the mother was arrested in San Bernardino County because of two warrants, one for child neglect in San Bernardino County and the other for child endangerment, and police obstruction in Orange County. At the time, three of the four children were with the mother, living out of her car. The children were placed with a foster family agency.

The children were ordered detained by the San Bernardino juvenile court on July 27, 2016. The whereabouts of the children's fathers were unknown. Family reunification services were ordered for the mother but not for the children's fathers. On March 28, 2017, the court ordered the matter transferred to Orange County. On April 13,

¹ Minors' counsel holds the same position as Orange County Social Services Agency (SSA).

² This petition was filed on behalf of A.G. and S.A. only. Neither B.G. nor N.G. are part of this petition and are only referenced to in this opinion to provide relevant background.

2017, the Orange County juvenile court accepted the transfer of the matter, and the children were declared dependents of the Orange County juvenile court.

In June 2017, S.A. was placed in a certified medical foster home in Orange County. The child has a complicated medical diagnosis and has up to 15 seizures daily, and is followed by specialty clinics at the Children's Hospital of Orange County. The other three children continued placement with their paternal grandmother. Both A.G. and B.G. are special education students who need ongoing educational support. The mother visited the children on a weekly basis, and "the children are bonded to the mother and enjoy visiting with her."

The mother was employed, but reported she was "laid off when the company received background checks on her." A few weeks later, her employer gave her another opportunity and she went back to work. The mother was living with her pastor's family and then with some friends. She reported that landlords would not rent to her due to her criminal background, credit history and the fact she had four children.

A September 2017 report from a social worker states: "The undersigned believes the mother loves her children but the undersigned is concerned that for the past twelve months the mother has not been able to hold steady employment or secure stable housing and as recent as August 17, expressed to the undersigned that she does not think she can care for all four children on her own without extended support. This is concerning to [SSA] as the mother has indicated that she has few supports in friends and family and has recently start[ed] missing appointments for the child, [S.A.]" The social worker recommended additional reunification services for the mother, explaining "[t]he additional time will allow the mother to demonstrate her continued effort in securing stable housing for the children."

At the 12-month review hearing, in September 2017, the juvenile court denied the mother's request for unmonitored visitation, but found there was a substantial

probability the children would be returned to the mother within six months. The court also ordered the plan of continued reunification services.

The next month, S.A.'s caregiver expressed concern about the mother because she did not come to her visits with diapers, a change of clothing or wipes. The caregiver also expressed concern because the mother missed "many appointments" for S.A. The social worker wrote in a report: "Of concern to the caregiver is that if the mother is expressing to be overwhelmed now to the point she forgets some of the child's appointments, it is only going to get worse when she has the four children in her care on a full time basis."

In November 2017, unsupervised visitation with the three older children was approved. When the social worker telephoned the mother to arrange the visits, the mother said she didn't have the money to travel from one place to another and that: "I want to do unsupervised visits but not every week. I would only like to do them occasionally. Like when it's their birthday or something special." A January 23, 2018 social worker report states the mother was visiting all four children twice a week at Orangewood Child and Family Center.

In late November 2017, the oldest child, A.G., suffered a seizure at school. The child was seen at the emergency room and referred to a neurologist. A few months later, doctors were exploring possible kidney problems as a result of A.G.'s high blood pressure. In March 2018, A.G.'s electroencephalogram was abnormal, and there were "concerns for subclinical seizures and potential status epilepticus."

In late December 2017, the mother assured the paternal grandmother she would attend the children's Christmas program where they performed in a choir. Because of that assurance, the grandmother told the children their mother would be there. But she did not show up, and the three older children were disappointed and upset. Yet by May 2018, the mother completed a 12-session parenting program.

In January 2018, a social worker noted: “[The mother] has verbalized disappointment in her extended family, specifically with her mother for not being able to help more with the children. The mother stated that she needs help with the children, citing she cannot do it alone as she has to work to support the children. The mother believes that she is doing the best she can with the limited supports she has. [¶] The mother has expressed that she is grateful for her church community who has been there to offer moral support and recently offered her a place to live.”

In a January 23, 2018 report to the court, the social worker stated: “Consideration must be given to the fact the children have been in out-of-care placement for over a year and are now in placement where they have reached a level of stability they previously did not have in the care of the mother. It would be detrimental for the children to disrupt them of that stability considering the poor prognosis for success if they were to return to the mother’s care. So in looking at the children’s best interest, [SSA] has no choice but to recommend termination of Family Reunification services [to] the mother. [SSA] respectfully requests that the court schedule a 366.26 Permanency Hearing to allow for further assessment of permanency options.”

The three older children had a weekend visit with the mother. Further overnight visits were scheduled. By February 2018, the visits were extended from Wednesdays to Sundays. By the end of February, the mother was explaining her frustrations with the children to the paternal grandmother. A.G. had been crying because her shirt was stained. When A.G. returned from a visit with her mother, her sweater was dirty and the mother handed the paternal grandmother a bag of dirty clothes because the mother did not have a washing machine.

A.G.’s school sent a note requesting that A.G.’s homework be signed. The paternal grandmother told the social worker she had explained to the mother that A.G.’s homework needed to be reviewed and signed, but the mother did not do so. On one

occasion, when the mother was supposed to pick up the children from the school at 1:50 p.m., she did not come until 2:45 p.m., explaining she fell asleep. The paternal grandmother wrote a letter to the court about the progress the three older children have made since they have lived with her. She requested they remain with her. In June 2018, the mother complained the paternal grandmother was influencing her child because A.G. did not want to visit with her.

In both June and July 2018, S.A.'s caregiver informed the social worker that the mother was supposed to appear for the child's medical appointments, but did not. In August, the mother missed a medical appointment for A.G. The mother also cancelled visits with the children. On one occasion, the mother took the three older children to the pool in her apartment complex. None of the children knows how to swim, and one of them mistakenly went into the deep end. By September 2018, the social worker reported to the juvenile court of unsuccessful attempts to contact the mother "to review her case plan, offer bus passes if needed, and also to inquire of the number of missed appointments and visits with the children."

On October 12, 2018, B.G. and N.G. were permitted to have a 60-day home visit with the mother. On October 25, a neighbor of the paternal grandmother saw B.G. and N.G. alone at the school bus stop as the mother had not picked them up. The neighbor walked the children to the paternal grandmother's home. The same thing happened on December 12 when the paternal grandmother's daughter went to the school to pick up A.G., and the two other children were left there when the mother did not pick them up. The mother failed to pick up the children at the bus stop a total of four times. While still with their mother, head lice were found on B.G. and N.G. in January 2019. One time when the mother was visiting S.A., she allowed the child to walk around without a helmet, even though the child is blind and prone to banging her head on the chair and a sliding door.

On March 1, 2019, the juvenile court concluded the 18-month permanency hearing. The court found that A.G. and S.A. could not safely be returned to the mother. A hearing pursuant to Welfare and Institutions Code, section 366.26 was set for July 8, 2019. (All further statutory references are to this code.) B.G. and N.G. were returned to the mother.

II

DISCUSSION

Substantial Risk of Detriment

At an 18-month review hearing, the juvenile court must return a child to parental custody unless the court finds by a preponderance of evidence that return of the child “would create a substantial risk of detriment to the safety, protection or physical or emotional well-being of the child.” (§ 366.22, subd. (a)(1).) This court must review the record to determine whether substantial evidence supports the juvenile court’s finding that A.G. and S.A. would be at a substantial risk of detriment if returned to the mother. “‘Substantial evidence’ means evidence that is reasonable, credible and of solid value” (*In re Yvonne W.* (2008) 165 Cal.App.4th 1394, 1400-1401.)

In making its findings, orders and rulings, the juvenile court stated: “The court would note that the care, the ongoing care of [S.A.] requires a significant amount of attention and care, and that it is, giv[ing] mother credit for her efforts with the other children, the court would find that it is – that she would not be in a position to provide, notwithstanding the services, the appropriate care for [S.A.] nor [A.G.] [¶] The court would note that [A.G.]’s physical issues entail issues of a heart condition, so these are not trivial matters. They are significant matters. [T]here is a window of opportunity that when services, therapeutic involvements for a child can be most effective in mitigating

the – the deficits that children – a child faces, and enhancing the ability of the child to – to develop as fully as possible.”

Here, the record clearly demonstrates the mother tried very hard to improve the sad circumstances that existed in 2016 when she was arrested. She did manage to slowly make improvements. She was ultimately able to find employment and secure housing. However, taking care of four children is a daunting effort for anyone, and two of these four children have serious medical issues and two of them are in special education. Even the mother agreed during her testimony in court that S.A. requires constant care. While the mother did improve matters, she was never able to demonstrate her ability to sufficiently protect A.G. and S.A. from substantial risk of detriment. Even up to a few months before the 18-month review hearing, she was missing medical appointments and leaving the children unattended after school ended. She was not careful enough to avoid having one of the children go into the deep end of a pool, knowing the child could not swim. She was not careful enough to avoid head lice on the two children living with her. The juvenile court found the head lice did not preclude returning B.G. and N.G. to the mother, “but they are factors with reference to [S.A.] and [A.G.]”

Under the circumstances we find in this record, we conclude substantial evidence supports the findings and orders of the juvenile court.

Reunification Services

The mother contends the juvenile court erred when it declined to continue reunification services. A court’s finding that reasonable reunification services have been offered or provided is subject to review for substantial evidence. (*Mark N. v. Superior Court* (1998) 60 Cal.App.4th 996, 1010.)

SSA “must make a good faith effort to develop and implement reasonable services responsive to the unique needs of each family.” (*Christopher D. v. Superior Court* (2012) 210 Cal.App.4th 60, 69.) “Reasonable visitation is an essential component of any reunification plan.” (*In re M.F.* (2019) 32 Cal.App.5th 1, 16-17.) At an 18-month review hearing, the juvenile court must “determine whether reasonable services have been offered or provided to the parent or legal guardian.” (§ 366.22, subd. (a)(3).) A continuance of services beyond 18 months may be granted under limited circumstances. Section 366.22, subdivision (b), provides a right to a continuance where additional reunification services would serve the child’s best interests, and the parent is making “significant and consistent progress” in treatment programs or in establishing a safe home.

Here, the juvenile court stated: “The court would find that the visitation protocols with [A.G.] have been reasonable. The court would note that the visitation with [S.A.] has been more limited. Again, the court notes the physical issues surrounding [S.A.] are more challenging, and given the totality of the – the evidence before the court, including the mother’s – the burdens that mother would necessarily face, the challenges that mother would face, that S.S.A. has offered reasonable services to give her the tools to meet those burdens, and not only with reference to [B.G.], [N.G.], but also with reference to [A.G.] and [S.A.] [¶] But the – notwithstanding these, these services, that the demands and the – that would be – and the needs of the children are such that even with these provisions of services which the court does find to be reasonable, the court would – and the court would make that finding by clear and convincing evidence, would find the –that return is, again is not – is not – would not be appropriate, and the corollary is that the – S.S.A. has made reasonable efforts.”

Under the circumstances we find in this record, we find substantial evidence supports the juvenile court’s finding by clear and convincing evidence that

reasonable reunification services were offered or provided. We cannot find the court erred in not continuing reunification services.

III
DISPOSITION

The petition is denied.

MOORE, ACTING P. J.

WE CONCUR:

ARONSON, J.

GOETHALS, J.